ATTACHMENT C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 23-80101-CR-CANNON(s)

UNITED STATES OF AMERICA,

     Plaintiff,

v.

DONALD J. TRUMP,
WALTINE NAUTA, **and**
CARLOS DE OLIVEIRA,

     Defendants.

                                   /

GOVERNMENT'S NOTICE OF EXPERT TESTIMONY OF HENRY HA[1]

The Government hereby files under Federal Rule of Criminal Procedure 16(a)(1)(G), Local

Rule 88.10(o)(3), and this Court's Order (ECF No. 215) its notice of intent to use the following

expert testimony in its case-in-chief at trial.

Henry K. Ha, Digital Forensic Examiner, Computer Analysis Response Team, Federal Bureau of Investigation

a.   **Training and Qualifications**

The United States intends to call Federal Bureau of Investigation ("FBI") Supervisory

Special Agent ("SSA") Henry K. Ha as an expert in forensic extraction and examination of digital

devices. SSA Ha has worked for the FBI since 2009. From July 2009 through July 2017, SSA Ha

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[1] The Government files this expert notice out of an abundance of caution. Numerous circuit courts have indicated that the type of digital data extraction about which SSA Ha would testify does not require expert testimony for admission. *See United States v. Williams*, 83 F.4th 994, 997 (5th Cir. 2023) (reviewing circuits and citing *United States v. Chavez-Lopez*, 767 F. App'x 431, 434 (4th Cir. 2019), *United States v. Marsh*, 568 F. App'x 15, 17 (2d Cir. 2014), and *United States v. Ovies*, 783 F. App'x 704, 707 (9th Cir. 2019)).

was a special agent with the FBI Las Vegas Field Office Cyber Squad, where he conducted cyber investigations, performed search and seizure operations, and conducted arrests and search warrants. From July 2017 through August 2019, SSA Ha served as a supervisory special agent in the FBI Cyber Division. Thereafter, from August 2019 through March 2023, he served as a special agent with the FBI Computer Analysis Response Team ("CART") in the Washington Field Office, first as a digital forensic examiner trainee, and then as a digital forensic examiner. In March 2023, SSA Ha was assigned to his current role as a supervisory special agent with the FBI Counterterrorism Division in Washington, D.C.

SSA Ha has received extensive professional training in digital forensic analysis. He also obtained various certifications related to digital forensic exams, including FBI Digital Evidence Extraction Technician Authorization (August 2014), FBI CART Technician Certification (August 2014), GIAC Certified Forensic Examiner Certification (January 2015), FBI CART Digital Evidence Laboratory Technician Certification (October 2019), FBI CART Mobile Device Authorization (January 2020), FBI CART MacOS Authorization (January 2020), FBI CART Linux Command Line Authorization (February 2020), and FBI CART Basic Wintel FE Certification (July 2021). In his role as a digital forensic examiner with CART, SSA Ha performed search and seizure operations and conducted numerous forensic examinations of digital devices, including cellular phones.

SSA Ha's qualifications to extract and analyze data from digital devices are based on his knowledge, skill, expertise, training, and education, as further described in his curriculum vitae, which has been provided to the defense. *See* USA-01286124 – USA-01286126.

b.   **Publications and Prior Testimony as an Expert**

SSA Ha has not authored any publications in the last ten years, nor has he testified as an

expert at trial or by deposition in the last four years.

c.   **Report Provided under Federal Rule of Criminal Procedure 16(a)(1)(F)**

The Government produced to the defense SSA Ha's forensic extraction report. *See* USA-

00944449 – USA-00944463.

d.   **Complete Statement of Testimony/Opinion and Basis**

The Government expects that SSA Ha will testify that he conducted a forensic extraction

of content and data from an Apple iPhone 12 Mini, IMEI 353008113083766, Serial Number

F4GDN8040GRN (designated FBI evidence item 1B1) used by defendant Carlos De Oliveira, that

was searched after the Government obtained a court-authorized search warrant for the device.[2]

SSA Ha will explain that for purposes of this device, his role was limited to forensic extraction

and verification of data from De Oliveira's phone.

In his testimony, SSA Ha will explain the manner in which he handled the digital device

and the process he used to extract data from the device and create a forensic image of it. SSA Ha

will describe that on February 13, 2023, he conducted a physical inventory of the device, and then

obtained an extraction of the digital device and the SIM card using GrayKey and Cellebrite

software. He will also testify about how a Cellebrite Reader report was generated as a result of

the forensic extraction of data from the phone and SIM card.

Additionally, SSA Ha will testify about why the extractions he performed are reliable and

accurate renditions of the data found on the digital device. For example, SSA Ha will explain how

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[2] The contents of the device, after a filter review was conducted for attorney-client privilege and scoping within the parameters of the search warrant, were provided to the defense in discovery. *See* USA-00402920 – USA-00413873.

hash values were generated and used to verify that the forensic image of the digital device was an exact match of the original evidence item. Similarly, SSA Ha will testify about the purpose behind imaging and hash-matching the original digital evidence, including to ensure that the original evidence is not damaged or altered during any subsequent forensic examination, and that the forensic image being analyzed contains the same data as the original evidence. SSA Ha will also explain how GrayKey has internal verification procedures to confirm that it has properly extracted the data from the device.

SSA Ha's opinions are based upon his education, training, and experience working in law enforcement and as a digital device examiner.

e.   Approval of Disclosure

Pursuant to Federal Rule of Criminal Procedure 16(a)(1)(G)(v), I have reviewed this disclosure and approve of its contents.

Date: January 10, 2024

Henry K. Ha
Digital Forensic Examiner
Special Supervisory Agent
FBI

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